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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,860	04/02/2001	Stein A. Lundby	QCPA793C1	1089

23696 7590 11/10/2003

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

EXAMINER

TRINH, SONNY

ART UNIT	PAPER NUMBER
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2685

DATE MAILED: 11/10/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/824,860

Applicant(s)

LUNDBY ET AL.

Examiner

Sonny TRINH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-23 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. **Claims 1-11 and 21-23**, drawn to method and apparatus for forming a stream of power control commands for controlling transmit power levels, classified in class 455, subclass 522.
 - II. **Claims 12-17**, drawn to method and apparatus for interleaving streams of power control commands to different base stations, classified in class 370, subclass 318.
 - III. **Claims 18-20**, drawn to method and apparatus for forming a plurality of power control commands based on a first data communication from each base station in a first active set of base stations and from each base station in a second active set of base stations, classified in class 455, subclass 69.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01).

In the instant case, the different inventions perform different functions. Claims of Group I performs the step of forming a first stream of power control commands for controlling transmit power levels of a plurality of different data streams. In contrast,

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Claims of Group II performs the steps of interleaving the streams of power control commands to the first and second base stations for controlling transmit power levels of a plurality of different data streams. Thus, it can be seen that claims of Groups I and II are unrelated because they perform different functions, and therefore distinct from each other.

Inventions I and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01).

In the instant case, the different inventions perform different functions. Claims of Group I performs the step of forming a first stream of power control commands for controlling transmit power levels of a plurality of different data streams. In contrast, Claims of Group III performs the steps of forming a first stream of power control commands based of a first data communication from each base station in a first active set of base stations and from each base station in a second active set of base stations and forming a second stream of power control commands based on the first data communication from each uncommon base station in the first and second sets of active base stations. Thus, it can be seen that claims of Groups I and III are unrelated because they perform different function, and therefore distinct from each other.

I. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

II. Because these inventions are distinct for the reasons given above and the search required for Group III is not required for Group I or Group II, and because the search required for claim I is not required for Group II, restriction for examination purposes as indicated is proper.

III. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

CONCLUSION

Any response to this action should be mailed to:

*Commissioner of Patents and Trademarks
Washington, D.C. 20231*

or faxed to:

(703) 872-9306, (for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, 6th Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonny TRINH whose telephone number is 703-305-1961. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed URBAN can be reached on 703-305-4385. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

Sonny Trinh

Patent Examiner
11/3/03

SONNY TRINH S.T.
PATENT EXAMINER